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2013

## The Professional, Fall 2013

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# THE PROFESSIONAL

A PUBLICATION OF THE  
HENRY LATIMER CENTER FOR PROFESSIONALISM



Volume XI, No. 5

[www.floridabar.org/professionalism](http://www.floridabar.org/professionalism)

Fall 2013

## Upcoming Events:

**September 26, 2013**  
Practicing with Professionalism  
*West Palm Beach, Florida*

**September 26-27, 2013**  
Leadership Academy  
Joint Meeting  
*Tampa, Florida*

**September 27, 2013**  
Standing Committee on Professionalism Meeting  
*Tampa, Florida 1:15-3:15*

**October 2, 2013**  
Practicing with Professionalism  
*Tampa, Florida*

**October 3, 2013**  
Practicing with Professionalism  
*Tampa, Florida*

**October 11, 2013**  
Practicing with Professionalism  
*Tallahassee, Florida*

**November 8, 2013**  
Practicing with Professionalism  
*Jacksonville, Florida*

**November 15-16, 2013**  
Leadership Academy Regional Meetings  
*Atlantic Beach, Florida and Miami, Florida*

**November 22, 2013**  
Practicing with Professionalism  
*Ft. Lauderdale, Florida*

**December 12, 2013**  
Practicing with Professionalism  
*St. Petersburg, Florida*

### Henry Latimer Center for Professionalism

Director:  
**Linda Calvert Hanson**  
Assistant Director:  
**Jacina Haston**  
Program Coordinator:  
**Vicki Simmons**  
Law Clerk:  
**Kevin Joyce**

### Florida Supreme Court Commission on Professionalism

Chair:  
**Justice R. Fred Lewis**

### The Florida Bar Standing Committee on Professionalism

Chair:  
**David Hallman**  
Vice-Chairs:  
**Donise Brown**  
**Michael Schneider**  
Board Liaison:  
**Stephen Echsner**

## A MESSAGE FROM THE CHAIR

In the classic movie "To Kill A Mockingbird," small town attorney Atticus Finch, speaks for lawyers everywhere, "I'm no idealist to believe firmly in the integrity of our courts and our jury system. That's no ideal ... to me that is a living, working reality." For every attorney who has practiced this honorable profession of ours, the integrity of our legal system is not some abstract ideal, but is a living, working reality. The integrity of our legal system is nothing more or less than the sum of our collective commitment to behaving honorably. I ask the reader to pardon my references to personal experience in the article that follows. For me, a quarter century of practice has been a collection of lessons, most of which involve me learning from my mistakes.

While there are many definitions of professionalism and an unlimited number of circumstances in which the opportunity for display of professionalism can face an attorney, it seems to this writer that at its essence, professionalism is about honor. As part of our oath, we each pledge to conduct ourselves with "truth and honor." The Creed of Professionalism chastens us to "at all times be guided by a fundamental sense of honor." Each day, our practice of law presents choices that are about honor. Professionalism is not a thing separate

from, but rather, integral to everything that we do and everything that we are.

New lawyers: You will encounter lawyers and judges who mistreat you, who act dishonorably, and who will disappoint you. Count on it. Other lawyers will hog the time in a hearing, leaving you no time

to respond, and some judges will allow it to happen. Opposing counsel will refuse to agree to hearing times, write letters that misrepresent your conversations, and judges will sometimes get it wrong. Count on it.

Experienced lawyers: You have had these same experiences and more. Know that clients and new lawyers are watching, learning about our profession from how you react to these challenges.

During my first year as an attorney, I had a case in which I could not persuade opposing counsel to file an amended answer, even after the court had ordered him to do so. I prepared a draft default and walked down the hall to ask my managing partner/supervisor for permission to file it. He suggested a different approach: File a motion to withdraw as counsel, indicating as a basis for the withdrawal that after numerous calls and letters, opposing counsel would not file the amended answer, and that "my sense of honor, and my obligations to client and

*See "Chair's Message" page 2*



## CHAIR'S MESSAGE

from page 1

the profession" will not permit me to continue in the case. Not only did the judge not grant my motion, but I suspect that my client benefitted greatly by the manner in which the issue was handled.

How we deal with difficult situations, cases, and opposing attorneys defines us professionally, far more than our wins and losses. When we act and react with honor, we disarm others, and sometimes even inspire them to behave better. When you know an attorney will talk over you, or hog hearing time, start the hearing by pointing out your past experience and concern to the court, and ask the judge for help. When letters come which misrepresent your conversations, correct the record politely and require that future communication be written. When you fear a court might get it wrong, see it as an opportunity to do an extra good job at making the record for appeal. (Take comfort in knowing that your writer, no appellate attorney by choice or skill, has filed a dozen appeals, and has usually prevailed.) The unifying theme should be that no matter how the other attorney may act, you are the master of your own reputation for honor and professionalism.

Early in my career, I prepared a response to an opposing party's poorly drafted discovery, adeptly avoiding each of their document requests, and brought the pleading to my supervisor for review. He smiled

and dropped it into the wastebasket beside his desk. He instructed me to go back to my office where the boxes of relevant documents were stacked, remove the privileged attorney-client correspondence, and have a courier take the boxes to opposing counsel's office with a note that we needed the originals back by the end of the week. On another occasion, I traveled to New York City, to the office of one of the world's largest insurance companies, to review documents in a litigation case. My team of attorneys, accountants, and other experts arrived to a room filled with hundreds of boxes, expecting a week of grueling work, sifting the handful of important documents from thousands of irrelevant ones. A senior partner of one of New York's most prestigious law firms, representing the other side, met me at the door. He shook my hand, welcomed me, and quietly explained that the "smoking gun" document I was searching for was inside the top of the first box. We exchanged a look that made me forever respect this lawyer; no client or case was so important to him or his firm that they would be a part of obstructing the search for truth. For him, it was about honor.

Know that you will make mistakes, and that how you confront those mistakes will define you much more than the error itself. Twenty years ago, I prevailed in a county court civil matter against a pro se litigant, but later learned that I had done so by citing as authority a case that had been reversed on appeal. Embarrassed in a way that even today

leaves me without words to describe the full extent of my emotion, I moved to set aside the judgment. I resolved never to make that mistake again.

You will make mistakes, you will lose cases that you should have won, and you will have bad days. In these circumstances and on those days, it is how you behave that will define you as an attorney. In these difficult times, it is my greatest wish for you that you will remember why you became an attorney, and remember the pride you felt, to become part of this honorable profession.

Near the end of "To Kill a Mockingbird," Atticus Finch, stooped and exhausted, is solemnly packing up his briefcase, having lost the murder trial of his clearly innocent client. The courtroom's balcony is filled with friends of his client, who are quiet, almost reverent. As Atticus Finch straightens and turns to leave, these spectators quietly rise, and one deeply respectful man whispers to Atticus's heartbroken young daughter, "Miss Jean-Louise, stand up. Your father's passing." See each day, each communication and each representation as an opportunity to impart to others that ours is an honorable profession. It is our collective professionalism and the honor that we bring to our practice of law that make the integrity of our legal system a living, working reality for everyone.

**David Hallman** is the Nassau County Attorney and Chair of The Florida Bar's Standing Committee on Professionalism.

## A Word To The Wise

*The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.*

– Martin Luther King, Jr.

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*When one door of happiness closes, another opens; but often we look so long at the closed door that we do not see the one which has been opened for us.*

– Helen Keller

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*I keep my ideals, because in spite of everything I still believe that people are really good at heart.*

– Anne Frank

# Director's Report

In May, I had the pleasure of presenting two CLE's, "Professionalism Matters" to the Third Judicial Circuit Bar Association in Lake City organized by Jennifer Kuyrkendall and "Professionalism Adds to Work Life Fulfillment" for the General Practice, Solo and Small Firm Section. This was followed by an opportunity to speak in the Distinguished Speaker Series in the "Professionalism, Ethics and the Legal Profession" class at Florida International University College of Law. Also in the spring, we welcomed our new law clerk, Kevin Joyce, a double Gator who is a third-year law student at FSU. Kevin's resourcefulness has been particularly beneficial in meeting the increased demands of the Center. His sharp research and writing skills have been invaluable as he has been heavily involved in the production of Leadership Academy curriculum and materials.

The Florida Bar Annual Convention was notably busy for the Center this June. It began with the Supreme Court Commission on Professionalism meeting on June 27, convened by Justice R. Fred Lewis. Comments about professionalism initiatives were shared by then President Gwynne Young, then incoming President Eugene Pettis, and incoming President-elect Greg Coleman. There was a review and discussion regarding the newly enacted Order SC13-688, "In Re: Code for Resolving Professionalism Complaints," and the Standing Committee on Professionalism (SCOP) was tasked with drafting a reporting form for the Commission. The first item of new business on the agenda was a consideration of the professionalism CLE requirements, which resulted in an assignment being made to the Standing Committee on Professionalism to review the issue and report back.

The Commission meeting was followed by the Judicial Luncheon during which time several SCOP award recipients were recognized. The Honorable Susan Harrell Black, U.S. Court of Appeal Judge for the Eleventh Circuit, and the Honorable Robert K. Rouse, Jr., Circuit Court Judge in the Seventh Judicial Circuit, both received the William M. Hoeveler Judicial Award and we were pleased that Judge Hoeveler joined the recipients at the luncheon. The Law Faculty Professionalism Award was presented to Associate Dean Michelle

D. Mason, from Florida International University College of Law. As part of the South Florida "Got Civility?" Project, 42 collaborating voluntary bar associations were recognized with the Group Professionalism Award. Full details on these recipients and their awards is provided in a separate article.

After the luncheon, the SCOP met and before Sean Desmond passed the gavel to incoming Chair David Hallman, we recognized the contributions of a number of members who termed off the committee. Members who had served for six years included Irwin Gilbert, the Honorable John Lazzara, the Honorable Stephanie W. Ray, and the Honorable George Richards, and those who served for three years included Diana Bock, Jason Goitia, Kimberly King, Warren Stamm, and Nneka Uzodinma. The Honorable Judge Stephanie Ray also was presented with special recognition by President-elect Greg Coleman for her extraordinary service in chairing the SCOP for two years. The meeting attendees were presented with a summary of accomplishments by the former working group chairs and learned David Hallman's vision for the upcoming year along with his charge to the new working groups.

The following day was the launch of the inaugural Leadership Academy for which the Center has been devoting a significant amount of time to arranging for speakers, creating curriculum, and developing resources for the fellows. During this kickoff, the 59 Fellows learned from Nora Riva Bergman about how soft core competencies such as Emotional Intelligence and the DISC

assessment enhance self-awareness to cultivate strong leadership skills. July's first concurrent regional meeting held in Clearwater and Fort Lauderdale offered greater insight into the operation of The Florida Bar, information on sections and committees, and built on substantive concepts designed to develop our rising leaders. The Center's role in the curriculum development process will continue throughout the year.

Another aspect of professionalism curriculum development includes that the Center shapes the 90-minute professionalism segment of the day long "Practicing with Professionalism" program that is taught by the Center attorneys and bar counsel that is offered live almost a dozen times this fall by the Young Lawyers Division. Additional enhancements recently made include incorporating information about the new Code for Resolving Professionalism Complaints and providing actual examples of unprofessional emails

that violate the civility provision of the oath to provide new lawyers with greater perspective of professionalism expectations in all areas of daily practice.

The SCOP Working Group Chairs are busy convening conference calls to begin new initiatives and efforts as we look forward to connecting at the fall meeting September 27, from 1:15-3:15 in Tampa at the Airport Marriott.

**Linda Calvert Hanson**  
Director of The Henry Latimer Center  
for Professionalism



*Judge Stephanie Ray was recognized by president-elect Greg Coleman for her outstanding service on the Standing Committee for Professionalism.*

## ***The 2013-2014 Standing Committee on Professionalism would like to welcome the following new members:***

Mr. Bryan Frederick Aylstock  
Ms. Michelle Anne Barton-King  
Mr. Alvin Fletcher Benton, Jr.  
Mr. Dale Kent Bohner  
Ms. Renee Lillard Brant  
Ms. Donise Edwards Brown – Vice Chair  
Mr. Timothy Patrick Chinaris  
Mr. Robert Andrew Coppel  
Ms. Kimare S. Dyer

Mr. Stephen Herre Echsner – Board Liaison  
Mr. James Solomon Haliczzer  
Mr. Gregory John Hoag – YLD Liaison  
Ms. Amanda Romfh Jesteadt  
Ms. Sharon Lynne Langer  
Ms. Kelley E. Lester  
Mr. Steven Mark Lury  
Mr. Kevin Charles Smith  
Ms. Sharon Calix Tiffany



# Standing Committee on Professionalism's Working Groups are off to a Great Start

In July at The Florida Bar Annual Convention, the Center and Standing Committee on Professionalism (SCOP) gratefully thanked Sean T. Desmond for his service as committee chair for 2012-2013 while David Hallman has now taken the reigns for the upcoming year. SCOP has working groups for Awards, Young Lawyers, Publicity and Communications, Aging Lawyers, Circuit Professionalism, Professionalism Seminar, and Ad-hoc. The SCOP's next meeting is scheduled for September 27, in Tampa. Described below are a few of the projects that the working groups are currently involved in:

## **Awards Working Group:**

The Awards Working Group, under the direction of Chair Michael Schneider, is currently in the process of reviewing application materials for the William M. Hoeveler Judicial Professionalism Award, the Group Professionalism Award, and the Law Faculty/Administrator Award. Next, the group will develop a marketing plan for the awards. Upon the application deadlines, the group will be responsible for reviewing the applications and making a recommendation of award recipients for 2014.

## **Young Lawyers Working Group:**

The Young Lawyers Working Group is hard at work revising the "Balancing Life and Law Program." Co-Chairs Sean Desmond and Rachel Greenstein designated a member

of the group to work with the Law School Division representative of the Young Lawyers Division at each law school to schedule potential presentation dates for the program and offer speakers. The group will also be working to offer suggestions regarding the Law School Reports prior to dissemination.

## **Publicity and Communications Working Group:**

Chair Caroline Johnson Levine and the Publicity and Communications Working Group are working to assist the Henry Latimer Center for Professionalism on upcoming events, new articles or publications, and other items of interest. The group is also helping the Center with marketing ideas and suggestions on potential improvements to the Center's website. In addition, the group will be reaching out to voluntary bar associations about getting newsletter articles published and working to compile professionalism articles for the Florida International University College of Law clearinghouse partnership.

## **Aging Lawyers Working Group:**

Chaired by Michael Cohen, the Aging Lawyers Worker Group is continuing to offer support to the existing project with the University of Florida and Shands Hospital. Additionally, the group is researching articles regarding aging lawyers to provide for the Florida International

University College of Law clearinghouse partnership.

## **Circuit Professionalism Working Group:**

Co-Chairs Denise D'Aprile and Carrie Roane along with the rest of the Circuit Professionalism Working Group are hard at work reviewing previous Circuit Professionalism Reporting Forms and developing any changes or additions that may be beneficial. The Chairs are also going to divide members into circuits to assist with collecting the Circuit Professionalism Report and devise a plan on how the final report will be drafted.

## **Professionalism Seminar Working Group:**

The Professionalism Seminar Working group, chaired by Judge Frances Perrone, is currently researching other states professionalism CLE requirements and whether the programs are delivered online versus live for a report requested by Justice Lewis. The group is also exploring the feasibility and ideas for a Masters Professionalism Seminar.

## **Ad-Hoc Working Group:**

Chaired by David Hallman, the Ad-Hoc Working Group will provide support to all other working groups as needed and assist with any projects assigned by the Supreme Court Commission on Professionalism.

## ***Mentoring Resource Available***

Is your voluntary bar association interested in creating a mentoring program? The Henry Latimer Center for Professionalism has created a Mentoring Toolbox that has all the essentials to make your program a success. The Mentoring Toolbox consists of a mentoring handbook, resource guide, PowerPoint presentation, and all necessary training materials are customizable for your particular organization. The Mentoring Toolbox is available upon request. If you or your organization are interested, please contact the Center at [cfp@floridabar.org](mailto:cfp@floridabar.org).

# Supreme Court Adoption of Code for Resolving Professionalism Complaints

On June 6, 2013, the Florida Supreme Court adopted a Code for Resolving Professionalism Complaints following the recommendation of its Commission on Professionalism. The Commission had concluded that significant professionalism problems required further and more concrete action than had previously been utilized.

Supreme Court Justice R. Fred Lewis, Chair of the Commission and author of the order, stated the opinion does not attempt to create an entirely new code. Instead, it uses integrated standards set out in the Bar's Oath of Admission, the Creed of Professionalism, Ideals and Goals of Professionalism, The Rules Regulating The Florida Bar, and relevant Florida Supreme Court cases.

The order adopts two means for resolving complaints regarding unprofessional behavior. The first is to continue handling some professionalism complaints by the Florida Bar Attorney Consumer Assistance Program (ACAP). ACAP fields and screens complaints against members of The Florida Bar. Depending upon the nature and severity of the professionalism complaint, ACAP can resolve the complaint informally or it can refer the matter to the appropriate branch office of The Florida Bar's Lawyer Regulation Department for further action.

The second mechanism requires each circuit to institute a Local Professionalism Panel (LPP), if the cir-

cuit does not already have such a panel in place (see chart on Center for Professionalism website for existing Circuit Professionalism Peer Review Programs). The LPP in each circuit will be the responsibility of the Chief Judge and it will receive, screen, and act upon any incidents of unprofessional conduct. While the LPP's are designed to informally resolve complaints, complaints can still be referred to the Bar as well. Additionally, complaints can be filed by nonlawyers as well as lawyers and judges, and the Commission passed a motion that such complaints at the

ing him to meet with the panel. If the complaint is filed by a nonlawyer or lawyer, the Chairperson will review the complaint and then refer it to the panel if deemed necessary. The panel will then meet at the designated time, with or without the attorney, to discuss the behavior and send a letter summarizing the panel's discussions. The panel has the discretion to refer complaints to The Florida Bar's Attorney Consumer Assistance Program (ACAP).

Additionally, the Fourth Judicial Circuit recently enacted Administrative Order 2013-09, Establishment of

the Local Professionalism Panel, that provides that the LPP will endeavor to resolve all referrals within 45 days of receipt.

As more Local Professionalism Panels are developed throughout the state, one concern of the Supreme Court Commission on Professionalism was reporting.

This issue was addressed at the Commission's meeting in June at The Florida Bar's Annual Convention.

Acknowledging that the LPP's are meant to be informal to maximize flexibility, the Commission decided that the Standing Committee on Professionalism would create a uniform, one-page reporting form that would be developed and distributed to each of the circuits. Each circuit will be responsible for sending the form to the Supreme Court for review to ensure that the process is working. ACAP will provide a report as well.

**"... the Professionalism Commission has concluded that we continue to experience significant problems that are unacceptable, requiring further and more concrete action. Surveys of both lawyers and judges continue to consistently reflect that professionalism is one of the most significant adverse problems that negatively impacts the practice of law in Florida today." In re Code for Resolving Professionalism Complaints, SC13-688 (Fla. 2013).**

local level should be handled within 60 days of filing.

One such LPP was recently ordered in the Fifteenth Judicial Circuit. The Fifteenth Judicial Circuit renamed the former "Fifteenth Judicial Circuit Professionalism Council" as the LPP.

The order states that while the Fifteenth Judicial Circuit Professionalism Panel has no authority to discipline or compel an attorney to appear, when complaints are filed by a Judicial Officer, the Chairperson will receive the complaint and address a letter to the attorney involved invit-

## Recent Decisions

### Keep It Professional

Recently, the Third District Court of Appeals reminded counsel to uphold their professional and ethical obligations. While the court found no error and therefore affirmed the judgment and sentence, the court noted that comments regarding the counsel's credibility are recurring at an unacceptable rate. The court cautioned counsel to not only remember their obligations but also follow the clearly defined line of conduct. The court encouraged trial courts to be mindful of misconduct and firmly admonish counsel for unacceptable behavior.

Fagins v. State, 116 So. 3d 569 (Fla. Dist. Ct. App. 2013).

### Continuing Duty to Amend Bar Application

The Florida Supreme Court recently revoked a lawyer's admission to the Bar and disqualified the lawyer from reapplying for 18 months due to lack of candor in the application process. The Board of Bar Examiners and Court decided that the lawyer failed to timely amend answers following his submission on the initial application. Amendments are considered timely when they are filed within 30 days of the change. While the lawyer did amend the application, it was only after the Board initiated proceedings. The lawyer stated in the amendment that the update was "of my own volition," which the Board and Court concluded was false, misleading, or lacking candor.

In re Florida Bd. of Bar Examiners ex rel. Zavakil, 115 So. 3d 965 (Fla. 2013).

# The Honorable Susan H. Black and the Honorable Robert K. Rouse, Jr., Receive the 2013 William M. Hoeveler Judicial Award

Awarded by The Florida Bar each year, the William M. Hoeveler Judicial Award recognizes a judge who best exemplifies strength of character, service, and competence as a jurist, lawyer, and public servant. Nominees for this award are judges who have communicated their pledge to the ideals of justice and diligence in inspiring others to the mission of professionalism.

This year, with Judge Hoeveler in attendance, Sean T. Desmond, the Chair of The Florida Bar's Standing Committee on Professionalism, presented the Honorable Susan Harrell Black, United States Court of Appeals for the Eleventh Circuit, and the Honorable Robert K. Rouse, Jr., Circuit Court Judge in the Seventh Judicial Circuit, with the 2013 William M. Hoeveler Judicial Award during the Judicial Luncheon at the Bar's Annual Convention.

Judge Black is a graduate of the

University of Florida College of Law and has been a member of the judiciary for more than 35 years. Prior to being appointed to the U.S. District Court in 1979 by President Jimmy Carter, Judge Black served in state, county and circuit court. In 1992, Judge Black was elevated to the U.S. Court of Appeals by President H.W. Bush.

Judge Black is known for bringing fairness and a pleasant demeanor to the bench and honor to the profession. She has remained committed to education by teaching a seminar at Duke University for the last 10 years and serving as a jurist-in-residence at the University of Florida College of Law.

Judge Robert K. Rouse, Jr., also graduated from the University of Florida College of Law. Judge Rouse was a civil attorney for more than 20 years before being appointed to the bench in 1995. In the late 1990s, he served two terms as Chief Judge and

has heard civil, family, and criminal law cases. Judge Rouse also authored the Principles of Professionalism, which were adopted by the Florida Supreme Court in 2006.

Judge Rouse is a man of honor, humor, and compassion who is admired for not only his dedication to his profession where he serves as a positive influence for other judges and attorneys but also for his dedication to his family.

The William M. Hoeveler Judicial Award is presented each year by the Florida Bar's Standing Committee on Professionalism. The Committee hopes that this annual award will continue to promote the ideals and values of its mission, justice system, and legal profession. Nominations for the 2014 William M. Hoeveler Judicial Award are due by or before February 1, 2014. Details are provided on the Center's website.



Judges Robert K. Rouse, Jr., and Susan Harrell Black (Photo Credit: UF Law)

Judges Robert K. Rouse, Jr., Susan Harrell Black and seated William M. Hoeveler (Photo Credit: UF Law)



# The Florida Bar Presents 2013 Group Professionalism Award and Law Faculty Professionalism Award

After a brief hiatus, The Florida Bar has reinstituted the presentation of two professionalism awards with the financial support of the Young Lawyers Division at the Bar's Annual Luncheon. This year, Sean T. Desmond, Chair of The Florida Bar's Standing Committee on Professionalism, presented the Group Professionalism Award to the South Florida Joint Civility Project and the Law Faculty Professionalism Award to Dean Michelle D. Mason.

The Group Professionalism Award is awarded to an organization that has created an innovative program that can be implemented by other organizations to promote and encourage professionalism within the legal community.

The South Florida Joint Civility Project was initiated by the Palm Beach County Bar Association, Broward County Bar Association, Miami-Dade County Bar Association, Martin County Bar Association and Cuban American Bar Association and also included participation from 42 voluntary bar associations in South Florida. Accepting the award from Sean T. Desmond on behalf of the group was Adam Rabin, Palm Beach County Bar Association President.

The goal of the "Got Civility?" Project is to remind new and experienced attorneys that they are professionals and therefore obligated to treat



both the court and their opponents with respect at all times. Additionally, the Project seeks to create a uniform standard of courtesy and civility across South Florida, which can be amended to use in other areas.

Nominees for the award were evaluated on a number of factors including the overall quality of the program, the ability for replication by other interested groups, the likelihood of continuation of the program, the substantive strength of the program in the area of professionalism, and the

potential impact on the legal community.

The Law Faculty Professionalism Award, which originated in 1999, is presented to a single faculty member or administrator of one of Florida's accredited law schools who through teaching, scholarship, and service to the profession best supports or exemplifies the mission of the Standing Committee on Professionalism.

The recipient of this award, Michelle D. Mason, Senior Associate Dean at Florida International University College of Law, is a graduate of Rutgers University College of Law. She joined FIU College of Law as founding Associate Dean for Admissions and Student Services in 2001. As the director for FIU Law's Center for Professionalism and Ethics, Dean Mason has developed a Center that strives to enhance public confidence and faith in the legal profession and the judiciary by educating and training lawyers to become ethical members of the Bar. Additionally, she designed a professionalism speaker series and teaches a course which focuses on professionalism, ethics, and leadership theories, principles, and training.

Nominations for the 2014 Group Professional Award and the Law Faculty/Administrator Award are due to the Center by or before February 14, 2014, and full details are available on the Center's website.



Associate Dean Michelle D. Mason receiving award from Sean T. Desmond  
(Photo Credit: The Florida Bar)



Sean T. Desmond and Adam Rabin  
(Photo Credit: The Florida Bar)



# It Is Not Just YOUR Attitude

By: Kevin Joyce, 3L, Florida State University College of Law

From your youngest days, you have heard about how your attitude affects you. You have heard about how it can increase or decrease personal productivity, reduce or increase stress, and how it can affect your health. What you may not have thought about though is that like the flu or some other illnesses, your attitude is contagious. It is a germ that can be passed from one person to another with the slightest bit of interaction. It is not just YOUR attitude.

For example, I was recently in an airport. Now as we all know, airports are not always locations that bring out the best in people as they are forced to deal with crowds, long lines, delays, lost baggage, and overpriced snacks. However, on this particular morning, I was happy to be at the airport because I was on my way home after being away for a few days.

As I started to place my belongings on the conveyor belt so they could go through the scanner, I began to hear the mumblings of a frustrated individual behind me. My initial reaction was to ignore the individual completely because the line was short, and I would soon be on my way. However, then I realized the mumblings were not just the normal frustrations that come with being in an airport but were actually about me. I carefully listened to the comments without giving any impression that I was doing so and tried my best to just let it go. It was not that easy though as the individual continued with the comments until we had both passed through the security checkpoint and collected our belongings. It was at that moment the individual confronted me with even more venomous comments and absurd accusations. Realizing that nothing positive could come from the situation, I simply wished the individual a safe flight and walked away.

You would think that the brief encounter would be but a small bit of turbulence on my trip and that I could “fly” above it, but it really made me think. For the remainder of my trip home, I interrogated myself about my actions and what I could have possibly done wrong. My atti-

tude had completely changed. I had gone from excitement about returning home to personal confusion and self-doubt. It was not until much later in the day that I realized that it was not me. I had not moved through the line too slow. I had not done anything wrong. I had simply come in contact with an individual carrying negative attitude baggage and it had affected me.

The moral of the story is the same as the title of this article – it is not just YOUR attitude. Whether you realize it or not, the attitude you bring to work, a deposition, the courtroom, or your everyday life has an effect on others.

With that being said, the choice is yours, and the Supreme Court of Florida sees it just that way. “Unacceptable professional conduct and behavior is often a matter of choice...” In re Code for Resolving Professionalism Complaints, SC13-688 (Fla. 2013). It is up to you.

You can choose to wake up on the wrong side of the bed in the morning and be a negative and overly-critical individual much like the airport traveler. You can be mad at the world and upset that you have to go to work to the point that you take those frustrations out on others. You can choose to be as downright hateful, disrespectful, and uncivil to opposing counsel or the bailiff as you want to be. Take The Florida Bar v. Ratiner for example. 46 So.3d 35 (Fla. 2010). In Ratiner, an attorney was publicly reprimanded and suspended for 60 days for unprofessional conduct at a videotaped deposition. Id. at 36. The attorney can be seen to repeatedly stand up and lean across the table yelling at opposing counsel. Id. at 37. At one point, the attorney even attempted to run around the table towards the opposing counsel. Id. at 37. His own consultant can be heard to say, “calm down, take a Xanax.” Id. at 37.

Apart from the reprimand and suspension, what are the other repercussions of those actions? Most likely, your co-workers will start to distance themselves from you because your cynical attitude is nothing but a drag.

Even worse is the effect that it could have on your workplace. In Ratiner, during one of the attorney’s outbursts, the court reporter can be heard exclaiming how she cannot work in the environment. Id. at 37. However, if people do not have the opportunity to physically distance themselves, there is sure to be decreased energy and performance. An efficient workplace succeeds because of cohesiveness and the journey towards the same goal but nothing ruins a team atmosphere more than a negative member. Your negative attitude will undoubtedly create a dim, cold world for yourself and others around you. Obviously, this is not the morally correct choice to make.

The other option is to make your attitude a positive one. With high energy and a positive attitude, co-workers will want to be around you. Your charisma will attract others to model their actions and attitude after yours in turn creating a strong work environment. A positive environment will create many benefits and bring a true sense of professionalism to all that you do. First, with everyone on the same page and excited about the work, productivity will increase. Co-workers will no longer keep their heads down and avoid voicing ideas out of a fear of rejection or embarrassment. Through this free-flowing exchange of ideas, not only will productivity increase, but when all parties are putting in their best efforts and all gears are working together in harmony, the quality of work will increase as well. Change your attitude and you can change your world.

As one who may not always have a positive attitude, how do you get there? While there is not a step-by-step process to developing a positive attitude, there are a few things to consider. First, decide that you want to have a positive attitude. Like most accomplishments in life, it is not an accident. You have to consciously decide to make the change. Next, silence the negative thoughts in your head and focus on the positive side of issues. When you are feeling anxious or stressed, take time to breathe and

to decompress. You have to take care of yourself. It is important to get adequate rest, eat regularly, and stay well hydrated. If you need to do something active or physical then punch a pillow, yell when you are alone, or do jumping jacks. Pet therapy can also be relaxing. Have fun and get a good laugh by watching a funny You-Tube clip or movie. Additionally, do not be afraid to ask for help. Positives attract. People with positive attitudes tend to attract others so do not be afraid to ask a person in your life how they continue to see things in a positive light.

It may not be an easy journey to achieve a positive attitude. It is sure to be filled with bits of turbulence or other people who try to share their baggage, but remember the choice is yours. It is important to remember in the long run, the benefits of a positive attitude far exceed those of a poor attitude. You will be more satisfied, relaxed, healthy, and other legal professionals will see you as a good influence and want to be around you. After all, it is not just YOUR attitude.

## RECENT PUBLICATIONS

Keith W. Rizzardi, "Redefining Professionalism? Florida's Code Mandating The Aspirational Raises Challenging Questions," *The Florida Bar Journal*, (forthcoming) November 2013.

• • •

G.M. Filisko, "Disbarred Lawyers Who Seek Reinstatement Have a Rough Road to Redemption," *ABA Journal*, August 2013.

• • •

Verna A. Meyers, "What If I Say Something Wrong? 25 Habits for Culturally Effective People," *American Bar Association*, August 2013.

• • •

Neil W. Hamilton and Verna E. Monson, "Ethical Professionalism (Trans)Formation: Themes from Interviews About Professionalism with Exemplary Lawyers," 52 *Santa Clara L. Rev.* 921 (2012). Available at: <http://digitalcommons.law.scu.edu/lawreview/vol52/iss3/7>

• • •

Scott L. Rogers, "The Mindful Law School: An Integrative Approach to Transforming Legal Education," *Touro Law Review*: Vol. 28: No. 4, Article 4 (2012). Available at: <http://digitalcommons.tourolaw.edu/lawreview/vol28/iss4/4>

# Standing Committee on Professionalism Now Accepting Professionalism Award Nominations

The Florida Bar's Standing Committee on Professionalism is now accepting nominations for its William M. Hoeveler Judicial Professionalism Award, Group Professionalism Award, and Law/Administrator Faculty Professionalism Award.

The Hoeveler Judicial Professionalism Award recognizes "a judge who best exemplifies strength of character, service, and competence as a jurist, lawyer, and public servant. Nominees should be judges who have communicated their pledge to the ideals of justice and diligence in inspiring others to the mission of professionalism," according to the Committee.

The purpose of the Group Professionalism Award is to recognize one organization that has an innovative program that can be implemented by other organizations to promote and encourage professionalism within

the legal community. Entrees are judged on their quality, how easy they are to duplicate by another association, the number of lawyers or law students participating or affected, the likelihood it will continue, and its success, among other factors.

The Law Faculty/Administrator Award is intended to honor a single faculty member or administrator of one of Florida's 12 law schools who through teaching, scholarship, and service to the profession best supports or exemplifies the mission of the Standing Committee on Professionalism: "To promote the fundamental ideals and values of professionalism within the legal system and to instill those ideals of character, competence, civility, and commitment in all those persons serving and seeking to serve therein."

Nomination forms can be found on the Center's website.

Nominations and all supporting documentation for the William M. Hoeveler Judicial Professionalism Award are due by February 1, 2014. The deadline for nominations for the Group Professionalism Award and the Law Faculty/Administrator Professionalism Award is February 14, 2014.

Nominations for the awards may be mailed or emailed to the Henry Latimer Center for Professionalism, The Florida Bar, 651 East Jefferson Street, Tallahassee 32399-2300, or [cfp@flabar.org](mailto:cfp@flabar.org).

All questions regarding the awards may be directed to Jacina Haston, Assistant Director for the Center for Professionalism, email [jhaston@flabar.org](mailto:jhaston@flabar.org), or by phone at (850) 561-5747.

Winners will be recognized at the 2014 Annual Bar Convention.

# Professional Integrity...Priceless

**By: Kimberly Clark Menchion, Member, Executive Counsel of General Practice Solo and Small Firm Section, Assistant General Counsel at Florida Department of Transportation, Tallahassee**

It seems like almost anything can be bought and sold, from securities on the stock market to designer handbags on eBay, but what about one's integrity. The business of practicing law puts attorneys to the test of figuratively buying and selling integrity. As members of the Bar, we take an oath and vow of professionalism, but how easily it is forgotten amidst generating billable hours, zealous advocacy of a client, and the gamesmanship of litigation.

I have firsthand knowledge of an attorney who faced a situation which called into question professional integrity. The Court ordered counsel to exchange exhibits a week in advance of the hearing. This attorney disregarded the Court's Order and casually handed opposing counsel exhibits ten minutes before the hearing was scheduled to begin. The attorney's strategy was that opposing counsel would request a continuance based on the late receipt of exhibits. Normally, in civil court the late exchange of exhibits would be grounds for non-admissibility. However, in other forums this is not always the case. For this particular forum, an argument for non-admissibility of exhibits would have more than likely resulted in a continuance. Opposing counsel reviewed the exhibits and found nothing detrimental to the case or that had not been seen previously through discovery and so proceeded. Next, the attorney insisted that his witness did not have and could not get exhibits needed for the hearing and requested that the case be continued. The witness, who was appearing by phone, could not hear the attorney's representation to the Court and announced that he had the exhibits, and was ready to testify. This story isn't horrifying, but it illustrates how subtle an issue of integrity presents itself and how we as attorneys must make decisions every day in order to determine what the cost of our choices are.

The preamble to the Florida Rules of Professional Conduct: A Lawyer's Responsibility, states that a lawyer is a representative of clients, an officer of the legal system, and a public citizen having special responsibilities for the quality of justice. The practice of law is meant to be a noble profession; one that gives a voice to others and utilizes a high level of skill to influence the development of justice within the society. If each of us took the lawyer's responsibilities seriously, and did not sacrifice or sell honesty, respect, dependability, reliability, and trustworthiness – would it change our daily practice of law? Some would argue that including integrity in our practice would improve the perception of the profession, attorney's satisfaction with their chosen profession, and enable attorneys to better contribute to shaping a just society. Yet others would argue that the traits of integrity and professionalism are antiquated and offer no tangible rewards. Therefore, the ultimate question is what is the value of integrity?

## THE COST OF COMPROMISED INTEGRITY

A study, released by the American Bar Association entitled *Perceptions of the U.S. Justice System*, revealed that a clear majority of those surveyed believe in the justice system, but only 14% of the respondents had a strong confidence in lawyers. Lawyers are often perceived to be more concerned about their own interests than the public's or the client's interest. This perception diminishes the influence that attorneys have to positively affect society as well as the prestige and credibility of the profession. One way to improve people's perception of lawyers is to display integrity in dealing with individual clients and the community. Beyond the need to improve the public's perception, human beings have an inherent need to live up to lofty

principles. When we feel that we are a part of a larger vision, it improves our quality of life. Popular to contrary belief, most lawyers embarked on a legal career with a desire to serve – to make a difference.

From a business standpoint, now more than ever, lawyers compete with various other methods of resolving issues between parties and handling transactional matters, i.e., pro se documents sold on the internet and at retail stores as well as competition from other types of professionals. It is important that the client receive added value from being personally represented by an attorney. In addition, private clients have become incredibly suspicious of lawyers' integrity when it comes to billing and are imposing stricter limitations on fee structures. For government, nonprofit, and corporate attorneys, it is important to maintain the trust of key

## Professionalism CLE Credit

Visit the Center's website at <http://www.floridabar.org/professionalism> and check out the Historical Video Series. There are over 30 DVDs of interviews of prominent members of the legal profession in Florida, including Justices of the Supreme Court, that are available for only \$35 each, plus tax. **Each DVD is approved for 1 hour of Professionalism CLE credit!**



individuals so that the attorney can adequately represent the organization and manage risk.

From a liability perspective, misappropriation of trust funds and failure to adequately communicate with clients are some of the most common complaints filed against attorneys being disciplined. These complaints could have been avoided by the attorney handling the funds properly and adequately communicating with the clients. These misgivings cause great public harm and distrust which none of us can afford. The cost of doing bad business may be profitable in the short run, but the long-term implications are extremely costly.

### **ADDING UP THE COST**

*No man can always be right.  
So the struggle is to do one's  
best, to keep the brain and  
conscience clear, never be  
swayed by unworthy motives  
or inconsequential reasons,  
but to strive to unearth the  
basic factors involved, then do  
one's duty.*

**-Dwight D. Eisenhower**

The tenants of integrity can seem aloof from our everyday life but it's simply doing what is right. Right means keeping in contact with our clients, being honest with the Court, respecting each other's time, accurately advising the client, and doing what we say we are going to do. The goal is not perfection, for no one is perfect, but it is our duty to strive toward serving others, to properly use one's knowledge and skill, to commit to enhancing our abilities, and to accept responsibility for our professional conduct. When we add up the cost, we find that we cannot afford to take our obligation of operating with integrity lightly – too much is at stake. Let's review the cost analogy. Spending adequate time explaining legal implications to the client ... 30 minutes; adhering to the Court's orders ... a loss of perceived advantage only; a respectable professional reputation, self-worth, and being free from reproach ... Priceless.



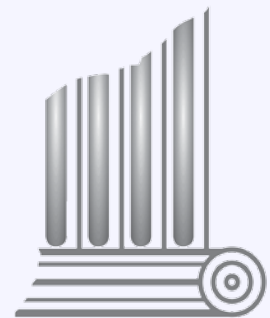
The Henry Latimer Center for Professionalism along with the Standing Committee on Professionalism is pleased to announce two new additions to the Historical Video Series:

**U.S. District Court Judge Alan S. Gold**

**U.S. District Court Judge Paul C. Huck**

The Historical Video Series was designed to capture the wisdom and knowledge of esteemed members of The Florida Bar. U.S. District Court Judge Alan S. Gold shares his knowledge on the practice of mindfulness while U.S. District Court Judge Paul C. Huck shares the importance of mentoring.

If you or your organization is interested in purchasing either of these one credit professionalism CLE DVD's for the cost of \$35.00+tax, please contact The Florida Bar Order Entry Department at (850) 561-5629 to place your order.



# Promoting Professionalism Through Bar Associations

**By: Caroline Johnson Levine, Member of The Florida Bar's Standing Committee on Professionalism, Office of the Attorney General, Tampa, Florida**

A great deal of professionalism is accomplished by Florida Bar attorneys who provide an excellent example of cordial behavior in and out of the courtroom. However, much more can be achieved through a multitude of volunteer opportunities offered in bar associations. As members of The Florida Bar, it is important to consider that professionalism efforts can be advanced on a larger scale through educational programs and social events for the legal and local community.

Recently, Tampa Bay's voluntary bar associations held an event to promote professionalism through inclusion, education, and charity. Importantly, The Florida Bar approved a diversity grant for this event in order to support these bar associations' efforts to interact and encourage increasing cooperation towards professionalism efforts.

The participating bar associations included the Hillsborough Association for Women Lawyers, the George Edgecomb Bar Association, the Tampa Bay Hispanic Bar Association, the South Asian Bar Association, the American Pacific Asian Bar Association, the Hillsborough County Bar Association, the Real Property, Probate, and Trust Law section of The Florida Bar, and the National LGBT Bar Association.

The event began with a two-hour continuing legal education presentation approved by The Florida Bar. Dawn Siler-Nixon of Ford Harrison presented "Communicating Across Differences – Using Cultural Competence in Your Arsenal" which encouraged an understanding of cultural differences and potential pitfalls in legal practice in order to promote effective representation of clients and retain legal talent in law firms. Additionally, I present-

ed "The Evolution of Equality," which followed the legislative and case history of equal rights as considered in the United States Constitution through subsequent and current legal developments to ensure equal protection under the law.

Following the CLE, a social event was held for all of the members of the Hillsborough legal community. This event included a fundraiser to support Camp Hopetake, an annual camp provided by the Tampa Bay Firefighter Charity Fund in order to give pediatric burn victims who have suffered traumatic injuries an exciting and educational experience. This camp provides children with an opportunity to forget about the physical and mental ailments that can afflict them after enduring such a harrowing event.

Jace Kohan, President of the Firefighter Charity, expressed his gratitude for the legal community's support of Camp Hopetake and stated that he was in "awe of the support from the legal community. This charitable effort will assist children in experiencing opportunities that can inform the children that they can have strong bodies and personalities and also help each other through the healing process." Tampa City Council member Lisa Montelione also attended this event and felt that it "was a wonderful event with a positive purpose of bringing together Tampa Bay's wonderfully diverse community."

Over 100 attorney's attended this event, including Lynwood Arnold, Executive Council Member of The Florida Bar's RPPTL section, who enthusiastically stated that the "RPPTL section wants to actively promote diversity and inform members of minority groups that we want all Florida

Bar members to experience inclusion and professionalism in the practice of law."

Occasionally, attorneys may mistakenly believe that membership in voluntary bar associations is solely for the purpose of networking for one's personal career development. However, it is clear from the myriad of important activities offered by bar associations, that there is much more to be accomplished for the benefit of the local and legal community. Additionally, participation in these associations can enhance one's leadership, educational, and benevolence skills, which will benefit all legal practitioners by raising the standard of professionalism in the practice of law.



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